The board said legislation also should be enacted to protect workers entering the armed forces against loss of their federal insurance protection.

One method, it said, might be to "freeze" their insurance status on the date of their induction into service. But a more satisfactory method, the board added, might be to extend the insurance system "to include employment with the armed forces" provided "co-ordination would be effected with programs set up for persons in the regular armed forces and with the special programs for veterans' benefits."—Sacramento *Union*, March 3.

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Radical Medical Changes in War Hit

Chicago, March 5 (AP).—The Journal of the American Medical Association contended today that radical changes in the system of medical care should not be considered during the war.

It set forth in an editorial that reports of the Social Security Board and statements by its chairman, Arthur J. Altmeyer, made it clear that the board's goal "is definitely a nationwide system of compulsory sickness insurance" that would include payment of $3 a day to workers who are in hospitals.—San Francisco *Call Bulletin*, March 5.

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Faith in the Doctor

Writing in the December issue of the *Mahoning County Medical Society Bulletin*, the Rev. Roland A. Luhman of the First Reformed Church, Youngstown, Ohio, observes:

"It is hardly necessary to speak to a patient about faith in God when it is obvious that he is wavering in faith in his physician or in his nurse. Speaking for myself alone, I always begin with what is at hand.

"'And who is your doctor?' This is generally one of the first queries asked of a patient or of a member of the patient's family. If I know the physician personally, and I do know a great number of them in this city, I always speak of some great service he has performed for some one in the past. His ability is mentioned. His thoughtfulness and his devotion to the patient is brought out. If it happens that the doctor in charge is unknown to me, still is he recommended. For it is my conviction that one practicing medicine and a recognized member of the medical fraternity must have about him some qualities of usefulness. Furthermore, if nurses are employed, a kind word is always spoken in their behalf. Yes, it is necessary for me to begin with what is at hand in order that confidence and faith may be firmly etablished in the persons into whose hands the patient has entrusted himself.

"So with confidence in man established, one can then proceed to 'build the soul,' as it were. . . ."

"Of course, the methods employed by the cleric to accomplish these ends differ in every case. I speak only for myself. In but a limited number of cases do I offer what is generally referred to as a 'formal' prayer. Prayer is after all the heart's desire either expressed formally or expressed informally through encouragement. I feel that when I have succeeded in awakening within the patient through my sincere interest in him a desire to coöperate with his physician and his nurse and have aroused a willingness on the part of the patient to let loose the 'haunting ghosts' that make him afraid, and have further excited a will to live on the part of the patient, that I have at least partially settled his body, heart and mind. In fact the prayer of the heart is answered even before it is uttered."

The clergy and the medical profession have much in common where the afflictions of mankind are concerned. They can and should supplement each other's efforts.—*Medical Annals* of the District of Columbia.

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Reappointment of Medical Trio Is Urged

A strong drive was reported in the Capitol today for reappointment by Governor Olson of three members of the state board of medical examiners whose terms expired on January 15th.

While other candidates for the bard are in the field, it was learned numerous representations have been made to the governor seeking the retention of the following veteran incumbents:

Dr. C. L. Abbott, Oakland: Dr. Percival Dolman, San Francisco, and Dr. George Thomas, Los Angeles.—Sacramento *Bee*, March 2.

MEDICAL JURISPRUDENCE†

HARTLEY F. PEART, ESQ.
San Francisco

Court Review of Medical Association Disciplinary Action

JUDICIAL interference with the internal affairs of unincorporated associations, in this case the Kern County Medical Association, was considered and refused by the California Supreme Court in *Smith v. Kern County Medical Association*, 19 A. C. 302, decided January 12, 1942. The exact function of the courts with respect to voluntary associations and the extent to which action of an association in suspending or expelling a member may be subjected to judicial review, have never been as clearly defined as might be desired. In view of this uncertainty it is gratifying to note that the California Supreme Court adopted the theory of the law advanced by counsel for the Kern County Medical Association, namely: That the only function which the courts may perform in this regard is to determine whether the Association has acted within its powers in good faith, in accordance with its laws and the laws of the land.

The action brought in the *Smith* case purported to be one in mandamus to compel an unincorporated society, the Kern County Medical Association, to reinstate the petitioner after an expulsion. Dr. Smith claimed that he was improperly expelled because (a) there were no grounds for expulsion, (b) the members who voted for his expulsion were actuated by fraud and were prejudiced against him, and (c) the expulsion was not in accordance with the rules of the society.

In an attempt to improve the unsatisfactory conditions prevalent in the Kern County Hospital, after direct action against the Board of Supervisors had not achieved all of the desired results, the Kern County Medical Association adopted a resolution providing that failure on the part of any member to resign from the staff of the Kern General Hospital "within a reasonable time, while present unsatisfactory conditions exist in said hospital, shall be construed as a violation of ethics, and shall make such member liable to disciplinary action in accordance with the constitution and by-laws." Charges were brought by the Association against the petitioner accusing him of a violation of this resolution, and of the following principle of medical ethics of the American Medical Association: "It is unprofessional for a physician to dispose of his services under conditions that make it impossible to render adequate service to his patient or which interfere with reasonable competition among the physicians of the community. To do this is detrimental to the public and to the individual physician, and

† Editor's Note.—This department of CALIFORNIA AND WESTERN MEDICINE, presenting copy submitted by Hartley F. Peart, Esq., will contain excerpts from and syllabi of recent decisions and analyses of legal points and procedures of interest to the profession.

lowers the dignity of the profession." He was also accused of engaging in political activity in connection with the operation of the Kern General Hospital, which resulted in an attempt to monopolize the treatment of the sick in that county, and a consequent overcrowding and understaffing of the Hospital to the detriment of the patients and the standards of the medical profession generally.

Hearings of these charges were had before the committee on grievances and the board of directors, of which the accused had due notice, but which he voluntarily did not attend. The action of expulsion by the board was referred to a vote of the members and all of the proceedings were in strict conformity with the rules of the society. The petitioner appealed to the California Medical Association and to the American Medical Association, each of which in turn declared the expulsion regular and affirmed the action of the local association.

Having failed to effect a reversal of his expulsion through appeals within the medical profession, Dr. Smith initiated this proceeding in mandamus in an attempt to induce the courts to interfere with the internal affairs of the Kern County Medical Association. His petition was denied by the trial court, the by-laws and constitution of the society being found to have been regularly adopted and all proceedings to have been regularly conducted in conformity with the rules to which the petitioner had subscribed on becoming a member of the Association. On appeal to the District Court of Appeal the decision of the trial court was reversed, on the ground that there had not been a quorum of members present at the meeting in which the question of the petitioner's expulsion had been submitted to a vote of the members, and that therefore the action of the Association was not valid. That this result was in direct conflict with the finding of the trial court supported by sufficient evidence was recognized by the Supreme Court, and that tribunal affirmed the decision of the trial court and upheld the action of the Association.

As a general rule the courts will not interfere with the action of an association in suspending or expelling a member, although they may do so where such action was illegal and particularly where property rights are involved. In the case under consideration all action taken was in accordance with the rules of the Association, and there was no question of the petitioner being deprived of any property rights since, in the words of the court, "the only right to which he was entitled as a member of the society was access to reports and medical data which were reserved to the membership as a whole." This being so, there is no question but that the Supreme Court arrived at the correct decision. Any other would have resulted in an unwarranted extension of the Court's authority into the internal affairs of a society whose members agree to be bound by its rules on admission to membership. As was immediately recognized by the Supreme Court it could not entertain any question as to the propriety of the adoption of the code of ethics of the Medical Association, but must confine itself to an examination of the procedure followed in order to determine if the action was taken in good faith, and in conformity with the rules of the society and with the law of the land.

The province of the courts with respect to the action of medical associations in suspending or expelling a member is illustrated by the closing words of the court's opinion: "Any matter of policy involved in the adoption of the by-laws, the code of ethics, and the resolution in conformity therewith, is a question for the membership itself, and is not debatable here so long as it is not shown that such policy is in violation of the law. Here such violation is not shown. The petitioner, having agreed to be bound by the laws adopted by the membership, is therefore precluded from any relief in this proceeding. (*Levy v. Magnolia Lodge, I.O.O.F., supra; Lawson v. Howell, 118 Cal. 613, 50 Pac. 763.*) As stated in the last cited case, the contractual relation between the Association and one of its members is that which exists by virtue of the rules of the Association, and so long as the Association acts toward him in accordance with those rules there is no violation of the contract."

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(Continued from Page 147)

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Known as "The House of Mending Hearts," it houses about one hundred young, underprivileged patients. Its work on rheumatic heart disease, and its high standard for the care of patients have brought to Irvington House great distinction as an experimental heart-saving sanatorium and training center, and has brought forth inquiries from as far as South America and Australia on the matter of setting up of convalescent homes for cardiac youngsters.

As an educational spearhead, Irvington House has been particularly energetic in bringing to the attention of the public how great the menace of rheumatic heart disease is. The United States Public Health Service regards this disease as one of the great American perils.

Specialized care and supervised living are provided for many months for underprivileged children afflicted with the ailment, so that they may be fortified in body and spirit to assume their rightful rôles as useful citizens.